IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5655 OF 2006

Upendra Sura ....Petitioner
V/s.
Pravesh Niyantran Samiti & Ors. ....Respondents

Mr.L.M. Acharya for the Petitioner.

Mr.R.V. Govilkar for Respondent No.4.

Mr.Navroz Seervai, Senior Counsel with Mr.Anant Upadhyay, Mr.Pratik Pawar, Mr.L.V. Bommer and Mr.Luckyraj Indorkar for Respondent No.6.

Mr.S.G. Aney, Senior Counsel with Mr.V.B. Naik for Respondent No.7.

Mr.A.A. Kumbhakoni, Assistant Advocate General with Mr.P.I. Khemani, AGP for the Respondent - State.

WITH

WRIT PETITION NO.5656 OF 2006

Parents' Association of Medical Students - Maharashtra ....Petitioner
V/s.
Pravesh Niyantran Samiti & Ors. ....Respondents

Mr.L.M. Acharya for the Petitioner.

Mr.Firdosh Poonivala with Mr.Anant Upadhyay for Respondent Nos.7 & 8.

Mr.S.G. Aney, Senior Counsel with Mr.V.B. Naik for Respondent No.9 to 11.

Mr.A.A. Kumbhakoni, Assistant Advocate General with Mr.P.I. Khemani, AGP for the Respondent - State.

WITH

WRIT PETITION NO.5658 OF 2006

Vibhor Jain & Ors. ....Petitioners
V/s.
Pravesh Niyantran Samiti & Ors. ....Respondents

Mr.L.M. Acharya for the Petitioner.

Mr.R.V. Govilkar for Respondent No.4.

Mr.Firdosh Poonivala with Mr.Anant Upadhyay for Respondent Nos.7 & 8.

Mr.S.G. Aney, Senior Counsel with Mr.V.B. Naik for Respondent Nos.9 to 11.

Mr.A.A. Kumbhakoni, Assistant Advocate General with Mr.P.I. Khemani, AGP for the Respondent - State.

CORAM : F.I. REBELLO, &
S.J. VAZIFDAR, JJ.
DATED : 6TH FEBRUARY, 2007.

P.C. :

1. The main relief as sought for in these Writ Petitions read as under :-

> "(b). this Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ, order or direction in the nature thereof, directing the Respondents No.1 to 4 to treat the students admitted for the academic year 2006-07 in the Respondents No.6 to 11 Colleges, as entitled to MUHS

sponsored MBBS, BDS, BAMS, BHMS, BPth, Both, B.Sc. Nursing etc. Degree Certificate and consequently may be pleased to direct the Respondent No.2 to fix the fees to be paid by the students admitted in Respondents No.6 to 11 for the academic year 2006-07 until completion of their respective degrees."

2. On 23.8.2006, at the ad-interim stage, this Court was pleased to pass certain directions as and by way of interim arrangement. We reproduce paragraphs 3 and 4 of the said order dated 23.8.2006, which read as under :-

"3. We are conscious that this is by way of interim arrangement. Since the admissions are closing today for the first round, we permit the students seeking admission today, to pay the fee as indicated by the Shikshan Shulka Samiti. This is however, subject to both the parents of the students giving an undertaking to pay the fees which will be finally determined, in writing to the college. This undertaking shall be tendered while seeking admission today itself. A copy

of the said undertaking shall also be furnished to this Court on Monday 28th August, 2006. This undertaking shall be given by the students who are taking admission in Bombay and in the vicinity of Bombay, by 28th August, 2006 and all other students from rest of Maharasthra shall furnish it within a period of two weeks from today.

4. We also make it clear that this order will not apply to the students who have already taken admission. It is made clear that the Colleges, in which students are taking admission, shall take undertaking as mentioned in this order and direct the students to furnish a copy of the undertaking in this Court within a period of one week."

3. At the time of hearing today, the learned counsel appearing on behalf of Respondent No.4 placed before us the resolution No.6 of 2007 which have been quoted in the affidavit filed before the Samiti. The English translation of which reads as under :-

"The students admitted in the following

colleges in the year 2006-07 and before that they are the students of the MUHS and will continue to remain so till the completion of their respective degree course and for that purpose the colleges will remain affiliated to this University.

1) Mahatma Gandhi Mission’s Medical College, Navi Mumbai.

2) Mahatma Gandhi Mission’s Medical College, Aurangabad.

3) Dr.D.Y. Patil Dental College and Hospital, Pimpri, Pune.

4) Padmashree Dr.D.Y. Patil College of Nursing, Pimpri, Pune.

5) Padmashree Dr.D.Y. Patil College of Physiotherapy, Pimpri, Pune.

4. On behalf of the said five colleges, the learned counsel makes a statement that they are agreed to the said resolution so far as admission for academic year 2006-07 is concerned. However, the

resolution is not clear for the subsequent period and they would not agree to affiliation to MUHS for subsequent period. If there be any further resolution by Respondent No.4 on that count, apart from what is stated in the resolution No.6/2007, it will be open to the Respondents to challenge the same.

5. By an order dated 23.8.2006 which we have reproduced earlier, the admissions were granted subject to the students giving an undertaking to this Court that they would pay the fees as fixed by Respondent No.2. Respondent No.2 has since fixed the fees. All students who were admitted pursuant to the undertaking given to this Court and/or or colleges will be bound to pay the said fees in the first instance within a period of six weeks from today. Needless to say that if the students or colleges are aggrieved by the fixation of fees, it will be open to the Petitioners as also the Management of the colleges to challenge the said fees subject to the conditions that the students will have to first pay the fees and the Management will have to refund the excess amount, if any.

6. With the above observations, the above Writ Petitions are accordingly disposed of.

(S.J. VAZIFDAR, J.) (F.I. REBELLO, J.)